COPY

No. 322

In the Supreme Court of the United States

OCTOBER TERM, 1960

RICHARD HARRIS, PETITIONER

v.

UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

J. LEE RANKIN,
Solicitor General,

GEORGE COCHRAN DOUB,
Assistant Attorney General,

JOHN G. LAUGHLIN, JR.,
DONALD H. GREEN,
Attorneys,
Department of Justice,
Washington 25, D. C.

INDEX

	Page
Opinion below	1
Jurisdiction	1
Question presented	1
Statute involved	2
Statement	2
Argument	3
Conclusion	4

CITATIONS

Cases:

Ball v. *United States*, 137 F. Supp. 740, certiorari denied, 352 U.S. 827	3-4
Dorer v. *United States*, 115 C. Cls. 83	4
Group v. *United States*, 125 C. Cls. 135	4
Levine v. *United States*, 133 C. Cls. 774	4
Love v. *United States*, 122 C. Cls. 114	4
Soriano v. *United States*, 352 U.S. 270	4

Statutes:

28 U.S.C. 2501	1, 2, 3, 4
31 U.S.C. 71a	3
31 U.S.C. 237	3

In the Supreme Court of the United States

OCTOBER TERM, 1960

No. 322

RICHARD HARRIS, PETITIONER

v.

UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

BRIEF FOR THE UNITED STATES IN OPPOSITION

OPINION BELOW

The Court of Claims did not write an opinion.

JURISDICTION

The order of the Court of Claims was entered on June 17, 1960. The petition for a writ of certiorari was filed on August 15, 1960. The jurisdiction of this Court is invoked under 28 U.S.C. 1255(1).

QUESTION PRESENTED

Whether the Court of Claims correctly ruled that petitioner's action was barred by the six-year statute of limitations, 28 U.S.C. 2501.

STATUTE INVOLVED

28 U.S.C. 2501. *Time for filing suit.*

Every claim of which the Court of Claims has jurisdiction shall be barred unless the petition thereon is filed within six years after such claim first accrues.

* * * *

STATEMENT

Petitioner worked as a civilian employee of the Government from November 21, 1942, to September 10, 1946, serving as a purchase analyst at Central District Headquarters, Army Air Forces, Department of Army, Detroit, Michigan. Petitioner started work at the grade of C.A.F. 7 and was eventually promoted to C.A.F. 11. He contends that he received oral assurance that, since his services were worth more compensation than he received, his position would be reclassified to a higher grade. He contends further that he was recommended for a promotion but, because of alleged animosity toward him by superiors, the promotion was never obtained. In 1946, he voluntarily left Government employment.

In 1949, petitioner began a series of attempts to obtain the added compensation to which he felt entitled. He corresponded with various members of Congress and he wrote to the President. On October 28, 1959, he filed a claim for $4,800 with the General Accounting Office, which was denied on November 6, 1959, because it was filed more than 10 years after

the claim had accrued.[1] A petition was filed in the Court of Claims on January 11, 1960, claiming $4800.00 as additional compensation for Government service which ended on September 10, 1946. The United States moved to dismiss the claim as barred by the statute of limitations, 28 U.S.C. 2501, and its motion was granted on June 17, 1960.

ARGUMENT

A cause of action in the Court of Claims accrues, for purposes of the statute of limitations, at the time when a suit may first legally be instituted, that is, when all events have occurred which fix the liability of the United States to the claimant and which entitle the claimant to sue thereon. *Ball* v. *United States*,

---

[1] 31 U.S.C. 71a and 237 provide:

(1) Every claim or demand (except a claim or demand by any State, Territory, possession or the District of Columbia) against the United States cognizable by the General Accounting Office under sections 71 and 236 of this title shall be forever barred unless such claim, bearing the signature and address of the claimant or of an authorized agent or attorney, shall be received in said office within ten full years after the date such claim first accrued: *Provided*, That when a claim of any person serving in the military or naval forces of the United States accrues in time of war, or when war intervenes within five years after its accrual, such claim may be presented within five years after peace is established.

(2) Whenever any claim barred by subsection (1) of this section shall be received in the General Accounting Office, it shall be returned to the claimant, with a copy of this section, and such action shall be a complete response without further communication.

137 F. Supp. 740 (C. Cls.), certiorari denied, 352 U.S. 827; *Group* v. *United States*, 125 C. Cls. 135; *Dorer* v. *United States*, 115 C. Cls. 83. Petitioner's claim, if any, accrued not later than September 10, 1946, when his employment with the Government was voluntarily terminated. The claim thus accrued more than 13 years prior to the filing of his petition with the Court of Claims and is barred by the applicable six-year statute of limitations. 28 U.S.C. 2501.[2] The judgment of the court below dismissing petitioner's case is clearly correct. Review by this Court is not warranted.

CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

J. LEE RANKIN,
Solicitor General.

GEORGE COCHRAN DOUB,
Assistant Attorney General.

JOHN G. LAUGHLIN, JR.,
DONALD H. GREEN,
Attorneys.

SEPTEMBER 1960

---

[2] The statute of limitations is jurisdictional and was not tolled by petitioner's attempt to obtain administrative or congressional relief. *Soriano* v. *United States*, 352 U.S. 270, 274-275; *Love* v. *United States*, 122 C. Cls. 144, 146; *Levine* v. *United States*, 133 C. Cls. 774.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1960 562587 231